DOCUMENT RESUME

ED 125 467 HE 008 042

AUTHOR McCune, Shirley; Matthews, Martha
TITLE Identifying Discrimination. A Review of Federal Antidiscrimination Laws and Selected Case Examples.
INSTITUTION National Foundation for the Improvement of Education, Washington, D.C.
SPONS AGENCY Office of Education (DHEW), Washington, D.C. Women's Program Staff.
PUB DATE 76
CONTRACT 300-75-0256
NOTE 20p.

EDRS PRICE MF-$0.83 HC-$1.67 Plus Postage.
DESCRIPTORS Case Studies; *Court Litigation; Discriminatory Legislation; Educational Legislation; Elementary Education; *Employees; Employment Practices; Equal Protection; *Federal Aid; Federal Legislation; Financial Support; Guidelines; *Higher Education; Secondary Education; *Sex Discrimination; *Students
IDENTIFIERS *Education Amendments 1972 Title IX

ABSTRACT

An understanding of federal and state laws prohibiting discrimination and their implications for education policies and practices is necessary for policy makers, administrators, and education personnel serving elementary, secondary, and postsecondary institutions. The summary of federal laws and regulations prohibiting discrimination in education institutions and agencies and selected case examples provide a review of laws most relevant to education institutions and agencies, it also facilitates the identification of discriminatory practices or situations along with the federal laws that apply. (JMF)

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ED125467

IDENTIFYING DISCRIMINATION

A Review of Federal Antidiscrimination Laws and Selected Case Examples

U.S. Department of Health, Education, and Welfare

Office of Education

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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IDENTIFYING DISCRIMINATION

A Review of Federal Antidiscrimination Laws and Selected Case Examples

Shirley McCune
Martha Matthews

Resource Center on Sex Roles in Education
National Foundation for the Improvement of Education
Washington, D.C.

U.S. Department of Health, Education, and Welfare

David Mathews, Secretary
Virginia Y. Trotter, Assistant Secretary for Education

Office of Education
T.H. Bell, Commissioner

Prepared under Contract 300-75-0256 for the Women's Program Staff
U.S. Office of Education, Department of Health, Education, and Welfare;
research and staff assistance also supported by funds from the Ford Foundation

DISCRIMINATION PROHIBITED – No person in the United States, shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, or be so treated on the basis of sex under most education programs or activities receiving Federal assistance.

IDENTIFYING DISCRIMINATION

A Review of Federal Antidiscrimination Laws and Selected Case Examples

An understanding of Federal and State laws prohibiting discrimination, and their implications for education policies and practices, has become a necessity for policy makers, administrators, and education personnel serving the nation's elementary, secondary and postsecondary institutions. In the years since the 1954 Supreme Court decision regarding *Brown v. The Board of Education,* Federal and State legislation and case law have delineated the diverse forms of discrimination which exist in education institutions and agencies and defined the rights of students and employees to consideration and treatment without regard to race, color, national origin, English language proficiency, or sex. These concerns must be incorporated into the programs, policies and practices of education agencies and institutions.

Many forms of discrimination result from the perpetuation of traditional practices and policies which have not been carefully examined to determine the impact of their application. These unrecognized forms of discrimination require systematic efforts for their identification and elimination. The first step for reducing such discrimination is to ensure one's ability to recognize possible discriminatory policies and practices, and the laws, regulations and guidelines which may apply.

The following materials provide an opportunity to review the Federal antidiscrimination laws most relevant to education institutions and agencies, and to test one's skills in the identification of discriminatory practices and situations and the Federal laws which apply to each. Federal regulations which provide further clarification of these antidiscrimination laws are listed in an appendix at the end of this document.

SUMMARY OF FEDERAL LAWS AND REGULATIONS PROHIBITING DISCRIMINATION IN EDUCATION INSTITUTIONS AND AGENCIES

Five Federal antidiscrimination laws and a Federal executive order comprise the major antidiscrimination requirements which are relevant to education institutions and agencies. These include:

Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act prohibits discrimination against students on the grounds of race, color, or national origin in programs receiving Federal funds. Title VI and related case law prohibit discrimination on the basis of race in student admissions, access to courses and programs, and student policies and their application. They also require the provision of bilingual instruction or some other method of compensating for students of limited English speaking ability. Any institution or agency receiving Federal funds is covered by Title VI. Most education activities of a recipient agency or institution are covered, even some activities or programs not in direct receipt of Federal funds.

Procedures for the filing of possible complaints are provided under the legislation. Such complaints should be filed with:

- The Office for Civil Rights
  U.S. Department of Health, Education, and Welfare
  Washington, D.C. 20201
  or
- a regional Office for Civil Rights
  U.S. Department of HEW

Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972

Title VII of the Civil Rights Act prohibits discrimination in employment on the basis of race, color, religion, national origin, or sex. All institutions or agencies with fifteen or more employees –including State and local governments and labor organizations–are covered under the amended Act. Title VII prohibits discriminatory practices in all terms and conditions of employment, including:

- recruitment, selection, assignment, transfer, layoff, discharge, and recall
- opportunities for promotion
- in-service training or development opportunities
- wages and salaries
- sick leave time and pay
- vacation time and pay
- overtime work and pay
- medical, hospital, life and accident insurance
- retirement plans and benefits
- other staff benefits

Complaints of employment practices which discriminate in violation of Title VII should be made to:

- The Equal Employment Opportunity Commission
  2401 E Street, N.W.
  Washington, D.C. 20037
  or
- a regional office of the EEOC

In instances where State or local fair employment practices laws provide procedures for the handling of complaints of discrimination, the complaint may be referred to the agency for a sixty-day period of time. If the complaint is not resolved at this level, the EEOC assumes responsibility for investigation and conciliation. If this fails, the EEOC, the U.S. Attorney General, or the complainant may file suit.

The Equal Pay Act of 1963 as amended by the Education Amendments of 1972

The Equal Pay Act prohibits sex discrimination in salaries and most fringe benefits. All employees of education institutions and agencies, including those in professional, executive, and administrative positions, are covered by the Equal Pay Act.

The Act provides that a man and a woman working for the same employer under similar conditions in jobs requiring substantially equivalent skills, effort and responsibility must be paid equally even when job titles and assignments are not identical.

Employers are required to maintain specified records relevant to the determination of possible violations of the law. Complaints may be filed with:

- Employment Standards Administration
  Wage and Hour Division
  U.S. Department of Labor
  Washington, D.C. 20210
  or
- a regional office of the U.S. Department of Labor

Title IX of the 1972 Education Amendments

Title IX prohibits discrimination on the basis of sex against students and employees of education programs and activities receiving Federal funds. Nearly all elementary, secondary and post-secondary institutions are covered under this legislation. The Title IX Regulation prohibits sex discrimination in such areas as:

- admissions to vocational, graduate, professional and public undergraduate schools
- access to courses and programs
- counseling and guidance–tests, materials, and practices
- physical education and athletics
- vocational education programs
- student rules and policies
- financial assistance
- student housing
- extracurricular activities
- employment in education institutions

The Regulation covering Title IX requires education agencies and institutions to develop grievance procedures for the local handling of complaints of discrimination. This procedure may be used or complaints may be filed directly with:

- The Office for Civil Rights
  U.S. Department of Health, Education, and Welfare
  Washington, D.C. 20201
  or
- a regional Office for Civil Rights
  U.S. Department of HEW

Executive Order 11246 as amended by 11375

Executive Order 11246 prohibits employment discrimination on the basis of race, color, religion, national origin or sex in institutions or agencies with Federal contracts of over $10,000. Relevant contracts include both contracts for direct services and "grants" which involve a benefit to the Federal government. Institutions or agencies covered under the Executive Order must observe nondiscriminatory practices in hiring, discharge, promotion, wages, benefits, training, and all other conditions of employment.

Those institutions or agencies with Federal contracts of $50,000 or more and 50 or more employees are required to develop written affirmative action plans with numerical goals and timetables. Although the contract may involve only one unit within the institution, the affirmative action plan must cover all employees throughout the institution.

Enforcement of the Executive Order and related policy guidelines are the responsibility of the Office of Federal Contract Compliance (OFCC) of the U.S. Department of Labor. The OFCC has designated HEW as the agency responsible for enforcement of the Order as it affects education institutions and agencies. Complaint procedures are provided for the filing of charges of possible discrimination and noncompliance. Complaints should be filed with:

- The Office for Civil Rights
  U.S. Department of Health, Education, and Welfare
  Washington, D.C. 20201
  or
- a regional Office for Civil Rights
  U.S. Department of HEW

Title VII (Section 799A) and Title VIII (Section 845) of the Public Health Service Act as amended by the Comprehensive Health Manpower Training Act and the Nurse Training Amendments Act of 1971

Titles VII and VIII of the Public Health Service Act state that institutions receiving Federal funds for their health personnel training programs may not discriminate on the basis of sex in admissions or in employment practices relating to employees working directly with applicants or students. Every institution receiving or benefiting from a grant, loan guarantee, or interest subsidy to its health personnel training programs or receiving a contract under Titles VII or VIII is covered.

Institutions are required to maintain specified records to determine whether violations have occurred. Periodic reviews of programs receiving Federal funds may be made to determine compliance with the regulation covering Titles VII and VIII.

Procedures are provided for the filing of complaints of violations of Titles VII and VIII. Complaints should be filed with:

- The Office for Civil Rights
  U.S. Department of Health, Education, and Welfare
  Washington, D.C. 20201
  or
- a regional Office for Civil Rights
  U.S. Department of HEW

CASE EXAMPLES

Examples of discriminatory policies and practices in education institutions and agencies are provided below. Each case example has been adapted from an actual situation. One group of case examples is drawn from the experience of local education agencies; another group provides examples drawn from postsecondary institutions. It may be useful to read through each of the examples to determine the possible areas of discrimination and probable violations of Federal laws and regulations. A space is provided in which the Federal law(s) or order relating to each example may be noted. A brief analysis of each example and the pertinent law or laws follow the final case example.*

*Many of these case examples were drawn from information provided by the National Education Association.

Background Information

School District No. 41 is responsible for the elementary-secondary education of 7,200 students who attend eighteen elementary schools, six junior high schools, two high schools and two vocational schools. The student population includes 1,600 black students, 418 Spanish-speaking students, 23 Asian students, and 16 Native American students. The District employs 280 classroom teachers, counselors, and paraprofessional personnel. Eighty-two percent of the elementary school staff and 48 percent of the secondary school staff is female. There are four minority teachers and 12 minority paraprofessional staff members in the District.

The central administrative staff is headed by a team of six males, none of whom is a member of a racial or ethnic minority group. None of the principals in the District is minority or female, but two minority males have recently been promoted to assistant principal positions and one female has been included in an administrative internship program provided by the District. The District currently holds a Federal contract of $80,000 for the development of model vocational programs.

Example 1

Ms. Chin, a counselor in one of District 41's secondary schools, has been employed by the District for the past eight years. As a classroom teacher she compiled an outstanding performance record; she completed a master's degree in the field of counseling and has consistently received outstanding ratings for her job performance as a counselor. Recently she has completed a second master's degree, this one in the field of school administration, and obtained the State credential for an administrative position.

This year Ms. Chin applied for the position of assistant principal at East High School. A male guidance counselor and a male physical education teacher also applied for the position. Neither of the men had been employed by the District for more than three years and neither had completed the requirements for the administrative credential. The physical education teacher, a white male, was selected for the job. When Ms. Chin asked for an explanation of the reason for the decision, the personnel office refused to provide a written or oral explanation.

Relevant law(s):

Example 2

Mr. Jones, a black male, received his B.A. degree in special education from the State University last June. He completed his student teaching in District 41 and received an outstanding evaluation and recommendation. As a result of his interest in the community, he applied for the special education position in Elmwood Elementary School. A white male who had just completed a B.A. degree was hired for the position even though he had no prior teaching experience or credential in special education.

Relevant law(s):

Example 3

Two vocational high schools are operated by the District. Boys are currently admitted to Jefferson Vocational High and girls to Washington Vocational High. Jefferson provides courses in printing, computer science and electronics which are not provided to students at Washington Vocational High School. A number of female students indicated their desire to study in those

fields not provided at Washington Vocational High School. Under pressures, the District permitted a few girls to enroll in courses at Jefferson, but only when there was not a full enrollment of boys.

Relevant law(s):

Example 4

East High School provides a variety of academic and extracurricular activities for its 1,200 students. In the wake of a 1972 desegregation order, more than 500 black students from West High School, which had been attended primarily by black students, were reassigned to East High School. All black students are automatically assigned to one semester of remedial English and must demonstrate proficiency in English before they may enroll in other English courses. There is no equivalent requirement for non-black students.

Relevant law(s):

Example 5

Barbara, a tenth grade student, is pregnant. According to School District policy, she must be excluded from regular classes and extracurricular activities as soon as her condition is obvious to others. Although special classes for pregnant students are provided, Barbara does not wish to attend these classes.

Relevant law(s):

Example 6

Vocational education courses offered in District 41's non-vocational high schools provide training and work experience in accounting, typing, shorthand, typesetting, mechanical drawing, and clerical sales which enable students to move into business and industrial positions upon graduation from high school. A work-study program is included, and many students work part of the school day in positions similar to those which they plan to enter following high school. Although both girls and boys are participating in all of the classes, the District maintains separate referral lists for boys and girls because some of the participating employers have stated that they will not accept either boys or girls for particular types of jobs. The same separate lists are maintained for postgraduation referral purposes, and the District refers boys and girls according to the employer's preference.

Relevant law(s):

Example 7

Ms. Martin, an experienced social studies teacher with an outstanding record of performance, has recently moved to the area included in District 41. She is interested in obtaining a position teaching social studies at the junior high school or senior high school level. She obtained an interview with a member of the District personnel office and explained her interest in securing a position in the area of social studies. The interviewer reviewed her record and recommendations and commented on them favorably. The interviewer indicated, however, that he was sorry that it would not be possible to offer her a position in the area of social studies since the social studies position open required a teacher who could also serve as coach for boys' basketball.

Relevant law(s):

Example 8

Ms. Ramirez has taught for seven years at one of the elementary schools within School District 41. She is expecting a child in six months. The District policy requires that pregnant women must stop teaching at least five months prior to the expected birth date. It also denies pregnant teachers any pay during this period, including accumulated sick leave pay. Ms. Ramirez is currently supporting her husband's completion of medical school. All her efforts to convince the school administration that she is medically able to complete the school year have failed. Her physician has advised the District that she is medically able to continue, but without results.

Relevant law(s):

Example 9

Juanita is a junior at West High School. She is an excellent swimmer and would like to swim competitively. She spoke to the coach of the varsity swim team about her interest and mentioned that her most recent time in the 300-meter medley was better than the times of three team members in the meet the week before. The coach said that although her time sounded good, District policy would not permit her to try out for the team because it limits membership to boys only. West High School offers volleyball and softball teams for girls and football, basketball, hockey, swimming, tennis and baseball for boys.

Relevant law(s):

Example 10

Seventh-grade students in School District 41 have completed several vocational interest inventories to determine the general direction of their vocational interests. Each student is provided a report of results indicating how his/her scores compare with those of other students of the same sex who completed the test. The report provided to female students is based upon a listing of such occupations as secretary, clerk, teacher, nurse, dental technician and other sex-stereotyped occupations. Similarly, the report provided to male students rates their interests in such vocations as auto mechanics, law, medicine, engineering and other sex-stereotyped occupations.

Relevant law(s):

Postsecondary Education

Background

State University is responsible for the education of 18,000 students, 6,000 of which are enrolled in professional or graduate programs of study. The student population consists of approximately eight percent black students, two percent Hispanic students, one and one-half percent Asian students and one-half of one percent Native American students. Sixty percent of the students are male and forty percent are female. The majority of the minority students are concentrated in the fields of allied medical sciences, sociology, social work, and education.

The part-time and full-time faculty, administrators and counselors number nearly 2,000 persons; 800 of this group are in tenured positions, 600 are on career ladders leading to tenure, and 600 are non-career ladder part-time and full-time faculty and staff. Although nearly 20 percent of the total faculty and staff is female (400), only 16 women hold tenured positions. Six black males in the social work and education departments are tenured; while the remaining 45 minority group faculty are non-tenured. Two Hispanic males employed in the Latin American

studies department have taught in the University for five years and are non-tenured. The Medical School has no tenured female faculty and two Asian American males who are tenured. The Law School has one tenured black male professor and one white female tenured professor.

The University currently receives a total of $2 million in grants and contracts from the Federal government and receives funds under the Public Health Service Act.

Example 1

Ms. Terry and Mr. Greenberg have taught in the English department since September, 1973. Both have completed all course work for the doctoral degree and are in the process of completing their doctoral dissertations. Ms. Terry teaches three sections of Freshman Composition and one section of Renaissance Literature, while Mr. Greenberg teaches Medieval Literature, Shakespeare and one section of Freshman Composition. Ms. Terry was initially hired at a salary of $9,800 and has received increases of $200 each year. Mr. Greenberg was hired at a salary of $10,000 and has been given subsequent increases of $500 each year. Ms. Terry and Mr. Greenberg received comparable performance ratings from students and colleagues.

Relevant law(s):

Example 2

State University has a placement service for students at all levels—undergraduate students, graduating seniors and students of graduate schools. Although both men and women participate in all the divisions and schools of State University, the placement service maintains separate job listings for men and women and for members of racial-ethnic minority groups because some of the participating employers have stated that they will not accept referrals of students of a particular sex or ethnic group.

Mr. Brown, a black male, ten credits short of a degree in business, was not informed of summer openings in his field and was referred to several camp counseling jobs. Mr. Smith, a white classmate in the business department, obtained a summer position in an accounting firm on referral from the placement service.

Relevant law(s):

Example 3

Ms. Temple, a black female, will receive her B.A. degree in art history from State University next June. Despite an exemplary academic record, she was not informed of scholarship opportunities for overseas study. When the selection of students receiving scholarships for overseas study was announced by the University, the group consisted of four white males and two white females, all of whom had been notified of the opportunity by the chair of the art history department.

Relevant law(s):

Example 4

State University requires all unmarried female undergraduate students to live in university residence halls on campus. The space for such students is limited, so a cut-off of applications of female unmarried students is made when the residence halls have been filled. No similar cut-off for male admissions is necessary since unmarried males may live in off-campus housing.

Relevant law(s):

Example 5

When the Black Students Alliance was formed nine years ago, the University provided the 79-student organization a meeting room in the basement of an old classroom building. The Alliance now has a membership of 543. Eight months ago, an astrological organization was formed. The Students for Psychical Astrology, which has a registered membership of 131, were provided semi-permanent headquarters in four rooms of the newly-constructed student activities complex.

All of the other student groups, composed primarily of white students, have been provided similar semi-permanent headquarters. The Black Students Alliance, composed primarily of black students, has not yet been offered similar semi-permanent headquarters.

Relevant law(s):

Example 6

Comprehensive medical insurance is provided for faculty and students of State University. Gynecological care for female faculty and students is exempted from coverage under this insurance although no exemptions are made in the coverage of male faculty and students.

Relevant law(s):

Example 7

The competitive sports program for women at State University has tradionally been limited to participation in competitive basketball and volleyball. Although intercollegiate and intramural teams are provided for women in these sports, the program can serve only a limited number of interested female students. Further, these women's teams are not provided support equal to that provided for men's teams. Female students must provide their own uniforms, and pay their own expenses during travel to games.

Recently a new fieldhouse was completed. The new facilities include a pool which will be used by the men's varsity swimming team. The University Athletic Department has made plans to provide a women's swimming team which will use the old, non-regulation size pool that has been abandoned.

Relevant law(s):

Example 8

Ms. Valdez has completed three years of teaching in the School of Education. After two and one-half years, she applied and was considered for tenure. She received notification that tenure was denied because she had recently married Mr. Cruz who already held a tenured position within the University. It is a regular practice of faculty committees within the University to deny tenure to female faculty on grounds of nepotism, although no such denial is required by University personnel policies.

Relevant law(s):

Example 9

Some three years ago, Mr. LaBelle, a black male, was approached about accepting the position of affirmative action officer for the University. It was suggested that if he performed well in this job, it would increase his chances of obtaining a central administrative position in the University. Mr. LaBelle accepted the offer; he has worked hard in his position as affirmative action officer and has received commendations for his performance.

During the past year Mr. LaBelle has applied for other central administrative jobs when openings were available. Each time he has been interviewed and told that his fine qualifications have been recognized, but that it is not possible to promote him to another job right now since the affirmative action position requires a minority staff person to give it credibility.

Relevant law(s):

Example 10

Dr. Como, a faculty member in the School of Allied Health Professions, has an M.D. degree and several years of teaching experience working directly with students enrolled in dental technician programs. Although she has worked as a colleague with Dr. Epstein since he joined the faculty two years after her arrival, she finds that she is being paid $4,000 less salary despite the fact that they occupy equivalent positions. It is also clear that Dr. Epstein has been encouraged to develop proposals for the funding of additional projects, while she has struggled for a year to gain approval of the School to apply for outside funding.

Relevant law(s):

ANALYSIS OF CASE EXAMPLES

Local Education Agency Examples

Example 1

Title VII of the Civil Rights Act, Title IX of the 1972 Education Amendments, and Executive Order 11246:

Although additional data would be needed to ascertain that Ms. Chin's nonpromotion to an administrative position was discriminatory, the evidence provided would suggest a general pattern of nonpromotion of women and a specific lack of consideration of Ms. Chin's credentials. Discrimination through nonpromotion of qualified women to administrative positions is prohibited by Title VII of the Civil Rights Act and Title IX of the 1972 Education Amendments. Because the District receives more than $10,000 in federal contracts, such discrimination would also be prohibited under Executive Order 11246.

Example 2

Titles VI and VII of the Civil Rights Act and Executive Order 11246:

Title VII states that selection and hiring of employees must be carried out without discrimination on the basis of race, color, religion, national origin, or sex. In this instance, the fact that a black male with relevant qualifications for the position was rejected in favor of a white male without the special education credential would suggest the possibility of discriminatory practices. Title VI would also apply to the extent that employment discrimination affects the beneficiaries of the program.

Example 3

Title IX of the 1972 Education Amendments:

The Title IX Regulation prohibits the provision of differential programs on the basis of sex. According to the Regulation, vocational schools operated by local education agencies may not be segregated on the basis of sex.

Example 4

Title VI of the Civil Rights Act:

The assignment of students to courses or the imposition of testing or evaluation requirements upon students on the basis of their race is discriminatory and in violation of Title VI. Black students may not be required to enroll in courses or to meet performance requirements if such enrollment or performance is not required of other students.

Example 5

Title IX of the 1972 Education Amendments:

No student may be compelled to attend a special program on the basis of pregnancy or related conditions. Furthermore, a pregnant student must be permitted to continue in her regular classes and activities unless there are medical contraindications of such participation. Certification of medical capability for continued participation in regular classes and activities may be required of pregnant students only when it is also required of students for other forms of temporary disability.

Example 6

Title IX of the 1972 Education Amendments and Title VII of the Civil Rights Act:

Although schools may provide referral services for employers, they are prohibited from maintaining sex-segregated referral lists. Maintenance of such lists for work-study purposes would be in violation of Title IX; maintenance of such lists for postgraduation referral would be a violation of Title IX and of Title VII of the Civil Rights Act.

Example 7

Title IX of the 1972 Education Amendments, Title VII of the Civil Rights Act, and Executive Order 11246:

The linking of job qualifications that would result in a disparate impact on the employment opportunities of members of one sex is prohibited by Title IX and by Title VII. Capability to provide social studies instruction must be the relevant qualification to be examined when hiring for a social studies position. Qualifications, requirements or criteria used for employee selection may not place a disparate burden on one sex unless such qualifications or criteria have been demonstrated to be valid predictors of success in the particular job under consideration and alternative criteria are not available.

Example 8

Title IX of the 1972 Education Amendments, Title VII of the Civil Rights Act, and Executive Order 11246:

The Title IX Regulation states that pregnant employees may not be forced to leave their positions at an arbitrary date established by administrative policy. The determination of the time at which a pregnant woman may be unable to continue professional duties must be made on the basis of medical consultation between a woman and her physician. Sick leave pay may not be denied for medical conditions related to pregnancy if it is provided for other forms of temporary disability. Similarly, Title IX and related case law require that pregnancy and medically-related conditions be treated as other forms of temporary disability.

Example 9

Title IX of the 1972 Education Amendments:

According to the Title IX Regulation, when overall competitive sports opportunities have been denied or limited for members of one sex, members of that sex must be permitted to try out for teams provided only on a segregated basis for members of the other sex when such teams do not involve contact sports. Thus, a female must be permitted to try out and be admitted to the male swim team if she can meet the objective standards established for participation and team membership.

Example 10

Title IX of the 1972 Education Amendments:

Sex discrimination in the use of counseling instruments and the provision of counseling services is prohibited by the Title IX Regulation. Provision of test results based on sex-differentiated norms is permitted only if boys and girls are provided with reports of their scores according to both sets of norms. Schools may not use tests or other materials for evaluating or counseling students which cover different occupational or interest areas unless their use is shown to be essential to the elimination of sex bias. Care must also be taken to ensure that students understand the meaning of such tests and are provided opportunities for clarification. Institutions using sex-differentiated instruments must be able to demonstrate that alternative instruments which do not so differentiate are unavailable and that the instruments are used in a nondiscriminatory fashion.

Postsecondary Education Examples

Example 1

Title IX of the 1972 Education Amendments, Title VII of the Civil Rights Act, Executive Order 11246, and the Equal Pay Act:

Male and female instructors carrying out equivalent job responsibilities must be paid comparably. Sex differentiation in pay (either in initial pay level and/or periodic increases) without evidence of substantial differences in the job functions or assignments is discriminatory.

Example 2

Titles VI and VII of the Civil Rights Act, Title IX of the 1972 Education Amendments, and Executive Order 11246:

Maintenance of job referral lists on the basis of race or sex is clearly in violation of Titles VI, VII and IX. The University is also subject to Executive Order 11246 by virtue of its Federal contracts and grants.

Example 3

Title VI of the Civil Rights Act:

Practices that provide differential treatment of students on the basis of race are prohibited by Title VI. Discrimination on the basis of race in the notification of students regarding financial assistance opportunities would be prohibited.

Example 4

Title IX of the 1972 Education Amendments:

Differential housing requirements for female and male students violate Title IX requirements for nondiscrimination in the treatment of students. Use of such policies as a means of limiting the admissions of females would also be in violation of Title IX Regulation requirements for nondiscrimination in admissions to public undergraduate institutions.

Example 5

Title VI of the Civil Rights Act:

Title VI prohibitions of race discrimination apply to most activities of a recipient education institution. Differential treatment of black students with regard to access to school facilities would be clearly discriminatory.

Example 6

Title IX of the 1972 Education Amendments, Title VII of the Civil Rights Act, and Executive Order 11246:

Differential provision of medical insurance and health services for male and female students and employees is prohibited by Title IX. Differential health services and benefits for female faculty members is also in violation of Title VII of the Civil Rights Act and Executive Order 11246.

Example 7

Title IX of the 1972 Education Amendments:

The Regulation implementing Title IX requires that education institutions effectively accommodate the interests and abilities of students of both sexes in club, intramural, interscholastic and intercollegiate athletics. In providing this opportunity, institutions must ensure that male and female athletes are not treated differentially with regard to such variables as:

- provision of equipment and supplies
- scheduling of games and practice times
- provision of travel and per diem allowances
- coaching and academic tutoring
- locker room, practice and competitive facilities

and several others. The case example indicates that the University does not adequately meet the interests of females in its athletic programs and does not provide support for the females who do participate in athletics which is equal to that provided for male athletes. Such practices are prohibited by Title IX.

Example 8

Title IX of the 1972 Education Amendments, Title VII of the Civil Rights Act and Executive Order 11246:

Although the Title IX Regulation does not prohibit nepotism rules, they are prohibited when applied in a manner which results in a disparate impact on one sex. In this situation, the

lack of policy specification would contribute to the potentially selective use of a nepotism prohibition as a practice to deny tenure to females on the basis of personal preferences or biases.

Example 9

Title VII of the Civil Rights Act and Executive Order 11246:

The assignment of an employee to a position on the basis of race would be a violation of equal opportunity principles. An applicant or employee is legally entitled to consideration for positions on the basis of his/her qualifications for those positions and without regard to his/her race.

Example 10

Title IX of the 1972 Education Amendments, Title VII of the Civil Rights Act, Executive Order 11246, Titles VII and VIII of the Public Health Services Act, and the Equal Pay Act:

The differential payment of male and female employees carrying out equivalent jobs is discriminatory. It is prohibited by the laws and the order listed above.

APPENDIX:
IMPLEMENTING REGULATIONS AND GUIDELINES

Title VI of the Civil Rights Act of 1964

Nondiscrimination in Federally-Assisted Programs–Regulation under Title VI of the Civil Rights Act of 1964, as amended through July 5, 1973.

(This may be obtained from the Office for Civil Rights, Department of HEW, Washington, D.C. 20201, or regional HEW offices.)

Title VII of the Civil Rights Act of 1964

Guidelines on Discrimination Because of Sex (April, 1972).

Guidelines on Discrimination Because of National Origin (January, 1970).

Guidelines on Employee Selection Procedures (August, 1970).

Laws and Rules You Should Know (1975).

(These and other materials are available from the Publications Unit, Equal Employment Opportunity Commission, 2401 E St., N.W., Washington, D.C. 20037 or EEOC district offices.)

Title IX of the Education Amendments of 1972 (Higher Education Act)

Final Title IX Regulation Implementing Education Amendments of 1972 (July, 1975).

(This may be obtained from the Office for Civil Rights, Department of HEW, Washington, D.C. 20201.)

Title VII (Section 799 A) and Title VII (Section 845) of the Public Health Service Act as amended by the Comprehensive Health Manpower Act and The Nurse Training Amendments Act of 1971

Sex Discrimination in Health-Related Training Programs (July, 1975).

(This may be obtained from the Office for Civil Rights, Department of HEW, Washington, D.C. 20201.)

The Equal Pay Act of 1963 as amended by the Education Amendments Act of 1972

Equal Pay for Equal Work–Interpretative Bulletin 800 (August, 1971).

Extension of the Equal Pay Act of 1963–Fact Sheet (September, 1972).

(More information may be obtained from the Wage and Hour Division, Employment Standards Administration, Department of Labor, Washington, D.C. 20210, or field, area or regional Wage and Hour Division offices.)

Executive Order 11246 as amended by 11375

Sex Discrimination Guidelines (June, 1970).

Revised Order No. 4 (December, 1971).

Obligations of Contractors and Subcontractors (May, 1968).

HEW Higher Education Guidelines, Executive Order 11246 (October, 1972).

(These may be obtained from the Office for Civil Rights, Department of HEW, Washington, D.C. 20201 or the Office of Federal Contract Compliance, Department of Labor, Washington, D.C. 20210, or regional HEW or DOL offices.)